

HONORABLE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC., a Delaware corporation,
Plaintiff,

v.

JOSHUA FISHER, JACOB W. MAHURON
A/K/A “PRAGMATICTAX,” MATTHEW
ABBOTT A/K/A “NOVA,” JOSE
DEJESUS AKA “DAVID HASTINGS”
A/K/A “J3STER,” TRAVERS RUTTEN
A/K/A “TRAVERS7134,” JESSE
WATSON A/K/A “JESSEWATSON3944,”
JOHN DOE NO. 1 A/K/A “CALC”,
ANDREW THORPE A/K/A “CYPHER,”
RYAN POWER AKA “KHALEESI,” JOHN
DOE NO. 4 A/K/A “GOD,” JOHN DOE
NO. 5 A/K/A “C52YOU,” JOHN DOE NO.
6 A/K/A “LELABOWERS74,” JOHN DOE
NO. 7 A/K/A “FRAMEWORK,” KICHING
KANG A/K/A “SEQUEL,” JOHN DOE
NO. 9 A/K/A “1NVITUS,” DAVID
BRINLEE A/K/A “SINISTER,” JOHN DOE
NO. 11 A/K/A “THEGUY,” JOHN DOE
NO. 12 A/K/A “BEATRED,” JOHN DOE
NO. 13 A/K/A “COMMUNITYMODS,”
JOHN DOE NO. 14 A/K/A “PALACE,”
JOHN DOE NO. 15 A/K/A
“VINCENTPRICE,” JOHN DOE NO. 16
A/K/A “ESSWAN,” JOHN DOE NO.
17A/K/A “ADMIRAL,” JOHN DOE NO. 18
A/K/A “TOMDICKHARRY,” JOHN DOE
NO. 19 A/K/A “ROB,” JOHN DOE NO. 20
A/K/A “STAYLOCKED,” JOHN DOE NO.
21 A/K/A “FIVE-STAR,” JOHN DOE NO.
22 A/K/A “HORROR,” JOHN DOE NO. 23
A/K/A ELITECHEATZ.CO, JOHN DOE
NO. 24 A/K/A MIHAI LUCIAN, JOHN

Case No. 2:23-cv-01143-MLP

DECLARATION OF DYLAN SCHMEYER
IN SUPPORT OF PLAINTIFF’S *EX PARTE*
FOURTH MOTION FOR AN EXTENSION
OF THE SERVICE DEADLINE UNDER
RULE 4(m)

NOTE ON MOTION CALENDAR:
September 13, 2024

DOE NO. 25 A/K/A NATHAN BERNARD,
A/K/A “DOVE,” JOHN DOE NO. 26
A/K/A “BLACKMAMBA,” JOHN DOE
NO. 27 A/K/A “BILLNYE,” JOHN DOE
NO. 28 A/K/A “BANEK192,” JOHN DOE
NO. 29 A/K/A SHOPPY ECOMMERCE
LTD, JOHN DOE NO. 30 A/K/A/ FINN
GRIMPE A/K/A “FINNDEV,” AND JOHN
DOES NO. 31-50,

Defendants.

I, Dylan Schmeyer, declare and state as follows:

1. I am an attorney with Kamerman, Uncyk, Soniker & Klein, P.C., counsel to Plaintiff Bungie, Inc. in this action. I make this declaration based on my personal knowledge of the facts herein, and could and would testify to them competently if necessary.

2. The Unidentified Defendants in this case have taken steps to obfuscate their identities and contact information, employing multiple pseudonyms across multiple platforms.

3. Defendants are actively attempting to cover their tracks, but Bungie has made great strides in identifying them, amending its complaint to reflect what it has learned and continuing to pursue the information necessary to serve, either conventionally, or, if necessary, through alternative service, every Defendant it is identifying.

4. Bungie has diligently pursued discovery and other investigative efforts in this action in order to identify, name, and serve the Unidentified Defendants. Bungie has sought leave of the Court to send its final round of third-party subpoenas, *see* Dkt. 58, and expects those productions to lead to the identification of many Defendants.

5. Bungie has issued 24 subpoenas in total to various third parties pursuant to the Court’s Orders, *see* Dkts. 27 and 51, to obtain the necessary information to complete its investigation – 18 in the first wave, six in the second wave, and has sought leave to send at least six in the third wave.

6. Bungie has sent a Rule 4 waiver request with the Amended Complaint to every Defendant it has identified (including those who received such requests for the original complaint), and is preparing to move forward with formal service of those Defendants for which

1 Bungie has sufficient contact information if it does not hear back shortly.

2 7. Bungie intends to seek alternative service of those it cannot serve by traditional
3 means, but requires the final productions sought in its pending motion for third-party discovery,
4 *see* Dkt. 58, to finalize the list of Defendants for whom alternative service will be necessary.

5 8. Bungie had hoped to be several weeks further along in this process, in order to
6 comply with the current service deadline of September 25th, but there was a significant delay in
7 receiving Discord's second production.

8 9. Large companies like Discord frequently fail to deliver their productions to
9 subpoenas like this in a timely fashion, but seeing as they do ultimately cooperate, it would be
10 both inefficient and disrespectful of the Court's time and resources to be anything but patient,
11 even if that means receiving productions weeks late.

12 10. Discord's initial response to Bungie's second round subpoena was to notify me
13 that it was duplicative, and thus they considered it handled. I investigated this claim and
14 concluded that counsel to whom I was speaking had innocently mixed up the second round
15 subpoena with the first round subpoena when responding to me. I was eventually able to point
16 out this error such that Discord concurred with my assessment and remedied the situation, but it
17 did delay Discord's production by another several weeks.

18 11. When the production finally arrived on August 1st, it was, as we expected,
19 considerable. My paralegal Kathryn Tewson and I analyzed it as quickly as we could, and used it
20 to finalize several more identifications, but that itself took time. As a consequence, the filing of
21 our third motion for third-party discovery was delayed as we finished determining what exactly
22 we needed from that final discovery request.

23 12. All this has conspired to force us to ask for one more extension of the deadline for
24 service, as our service efforts and request for alternative service cannot be finalized until we
25 either receive the final subpoena productions or we are denied leave to conduct further discovery
26 for purposes of identifying and locating the remaining Unidentified Defendants.

27 I declare under penalty of perjury under the laws of the United States that the foregoing is

1 true and correct to the best of my knowledge.

2 Executed this 13th day of September, 2024, at Thornton, Colorado.

3
4 *s/ Dylan Schmeyer*

DYLAN SCHMEYER